

Department of State

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(3) The license numbers of all approvals on which unshipped balances will be shipped under the surviving registration number, since any license not the subject of notification will be considered invalid; and

(4) Amendments to agreements approved by the Office of Defense Trade Controls to change the name of a party to those agreements. The registrant must, within 60 days of this notification, provide to the Office of Defense Trade Controls a signed copy of an amendment to each agreement signed by the new U.S. entity, the former U.S. licensor and the foreign licensee. Any agreements not so amended will be considered invalid.

(d) Prior approval by the Office of Defense Trade Controls is required for any amendment making a substantive change.

§ 122.5 Maintenance of records by registrants.

(a) A person who is required to register must maintain records concerning the manufacture, acquisition and disposition of defense articles; the provision of defense services; and information on political contributions, fees, or commissions furnished or obtained, as required by part 130 of this subchapter. All such records must be maintained for a period of five years from the expiration of the license or other approval. The Director, Office of Defense Trade Controls, may prescribe a longer or shorter period in individual cases.

(b) Records maintained under this section shall be available at all times for inspection and copying by the Director, Office of Defense Trade Controls or a person designated by the Director (the Director of the Diplomatic Security Service or a person designated by the Director of the Diplomatic Security Service or another designee), or the Commissioner of the U.S. Customs Service or a person designated by the Commissioner.

PART 123—LICENSES FOR THE EXPORT OF DEFENSE ARTICLES

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§ 123.1 Requirement for export or temporary import licenses.

(a) Any person who intends to export or to import temporarily a defense article must obtain the approval of the Office of Defense Trade Controls prior to the export or temporary import, unless the export or temporary import qualifies for an exemption under the

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provisions of this subchapter. Applications for export or temporary import must be made as follows:

(1) Applications for licenses for permanent export must be made on Form DSP-5 (unclassified);

(2) Applications for licenses for temporary export must be made on Form DSP-73 (unclassified);

(3) Applications for licenses for temporary import must be made on Form DSP-61 (unclassified); and

(4) Applications for the export or temporary import of classified defense articles or classified technical data must be made on Form DSP-85.

(b) Applications for Department of State export licenses must be confined to proposed exports of defense articles including technical data.

(c) As a condition to the issuance of a license or other approval, the Office of Defense Trade Controls may require all pertinent documentary information regarding the proposed transaction and proper completion of the application form as follows:

(1) Form DSP-5, DSP-61, DSP-73, and DSP-85 applications must have an entry in each block where space is provided for an entry. All requested information must be provided.

(2) Attachments and supporting technical data or brochures should be submitted in seven collated copies. Two copies of any freight forwarder lists must be submitted. If the request is limited to renewal of a previous license or for the export of spare parts, only two sets of any attachment (including freight forwarder lists) and one copy of the previous license should be submitted.

(3) A certification letter signed by an empowered official must accompany all application submissions (see §126.13 of this subchapter).

(4) An application for a license under this part for the permanent export of defense articles sold commercially must be accompanied by a copy of a purchase order, letter of intent or other appropriate documentation. In cases involving the U.S. Foreign Military Sales program, three copies of the relevant Department of Defense Form 1513 are required, unless the procedures of §126.4(c) or §126.6 of this subchapter are followed.

(5) Form DSP-83, duly executed, must accompany all license applications for the permanent export of significant military equipment, including classified hardware or classified technical data (see §§123.10 and 125.3 of this subchapter).

(6) A statement concerning the payment of political contributions, fees and commissions must accompany a permanent export application if the export involves defense articles or defense services valued in an amount of \$500,000 or more and is being sold commercially to or for the use of the armed forces of a foreign country or international organization (see part 130 of this subchapter).

(d) Provisions for furnishing the type of defense services described in §120.9(a) of this subchapter are contained in part 124 of this subchapter. Provisions for the export or temporary import of technical data and classified defense articles are contained in part 125 of this subchapter.

(e) A request for a license for the export of unclassified technical data (DSP-5) related to a classified defense article should specify any classified technical data or material that subsequently will be required for export in the event of a sale.

§ 123.2 Import jurisdiction.

The Department of State regulates the temporary import of defense articles. Permanent imports of defense articles into the United States are regulated by the Department of the Treasury (see 27 CFR parts 47, 178 and 179).

§ 123.3 Temporary import licenses.

(a) A license (DSP-61) issued by the Office of Defense Trade Controls is required for the temporary import and subsequent export of unclassified defense articles, unless exempted from this requirement pursuant to §123.4. This requirement applies to:

(1) Temporary imports of unclassified defense articles that are to be returned directly to the country from which they were shipped to the United States;

(2) Temporary imports of unclassified defense articles in transit to a third country;

(b) A bond may be required as appropriate (see part 125 of this subchapter